REMARKS

Applicants acknowledge receipt of the Final Rejection mailed September 14, 2010. Reconsideration of the rejections is respectfully requested in view of the foregoing amendments and the following remarks.

Amendments

Claim 1 has been amended to recite that the claimed device has a maximum absorption of 0.1 g/cm^2. This amendment is supported in the specification at page 9, lines 21-23. Claim 38 has been cancelled without prejudice.

No new matter has been added.

Prior Art Rejections

The Examiner has rejected claims 1, 3-4, 6-7, 19-20, 27-28, 30, and 32-37 under 35 U.S.C. § 102(e) as allegedly anticipated by Cleary, et al., U.S. Patent Publication No. 2003/0170308 ("Cleary"). The Examiner also rejected claims 5 and 38-39 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cleary. Finally, claims 8-15 and 31 have been rejected

under 35 U.S.C. § 103(a) as allegedly unpatentable over Cleary and Edgren, et al., U.S. Patent No. 6,245,357 ("Edgren").

Applicants respectfully traverse these rejections.

The presently pending claims recite a wound care device with maximum absorption of 0.1 g/cm^2. As conceded by the Examiner, Cleary does not teach a device with a maximum absorption of 0.1 g/cm^2 to promote moist wound healing, because the minimum absorption of any of Cleary's devices is the device disclosed in Table 6 with an absorption of 0.223 g/cm^2. Cleary cannot anticipate the present claims because Cleary does not show each limitation of the claims (in particular the absorbency limitation and the limitation regarding promotion of moist healing), either expressly or inherently, requiring withdrawal of the anticipation rejection. See, e.g. Atofina v. Great Lakes Chem. Corp., 441 F.3d 991, 999 (Fed. Cir. 2006); MPEP 2131.

Pending claim 1 recites a wound care device for the local treatment of pain and to promote moist wound healing. The device incorporates an active pain relieving agent, and has a maximum absorbency of 0.1 g/cm^2. Thus, the presently claimed device is used as a wound contact layer able to transfer pain relievers to a wound, and which prevents additional dressings from sticking to the wound. The limited absorbency of the device

promotes the release of the pain relieving agent and provides moist wound healing conditions.

By contrast, one of the primary purposes of the Cleary dressing is to absorb moisture. For example, Cleary states that "ideal hydrogel adhesives also display very high swelling upon contact with water" (¶ [0007]), and that when its hydrogel composition is used in a wound dressing, "hydrogel compositions that exhibit a high degree of absorbency are preferred" ¶ [0146]). Moreover, Cleary clearly states one of the problems with prior art devices was low absorbency and that improved absorbency is desirable:

> "[0004] To improve the absorbance of conventional fibrous wound dressings, water-swellable polymers, or "hydrogels," have been incorporated into gauze or other fibrous materials for application to a wound. For example, U.S. Pat. No. 5,527,271 to Shah et al. describes a composite material made from a fibrous material, such as cotton gauze, impregnated with a thermoplastic hydrogel-forming copolymer containing both hydrophilic and hydrophobic segments. While the wound dressings are described as having increased absorptive capacity, the adhesion of fibers to the wound or newly forming tissue remains a significant disadvantage.
>
> "[0005] Another approach has been to use water-swellable polymeric materials instead of gauze, cotton, and the like. Wound-contacting surfaces made of such materials are not only more absorbent than conventional fibrous materials, they are also advantageous in that there is no risk of fiber adhesion during wound healing and upon removal of the wound dressing."

(emphasis added).

In view of all of the foregoing, a person of skill in the art reading Cleary would certainly understand that Cleary is

seeking enhanced absorbency.[1] This is particularly true with respect to use of Cleary's composition in wound dressings, where "hydrogel compositions that exhibit a high degree of absorbency are preferred" (¶ [0146]. This means that it would not have been obvious to modify Cleary's composition in a wound care device with a maximum absorbency of 0.1 g/cm^2.

Accordingly, Applicants submit that Cleary clearly teaches away from the use of the low absorbency device recited by the present claims, and respectfully request withdrawal of the obviousness rejection

With respect to the obviousness rejections over Cleary in view of Edgren, Applicants note that Edgren is directed to an oral dosage form. (Although claim 28 is not limited to an oral dosage form, the reference as a whole is clearly directed to oral dosage forms). The Examiner has not provided any reason, nor is there any such reason, why a person of skill in the art would seek to combine Edgren's teachings with those of Cleary, which is directed to a "patch-like" device. For this reason, in addition to the fact that neither reference teaches or suggests a maximum

[1] The Examiner's reliance on Cleary's ¶ [0037] is misplaced. Applicants agree that ¶ [0037] shows that Cleary "discuss[es] the hydrophobic materials that have limited absorptive capacity." However, Cleary doesn't teach that lower absorbency is preferable or desired.

absorbency of 0.1 g/cm^2, Applicants respectfully submit that the obviousness rejection over Cleary in view of Edgren should be withdrawn.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that the claims are in condition for allowance, and earnestly solicit prompt notice to that effect. If the Examiner believes a telephone call would advance prosecution, she is invited to telephone the undersigned.

Respectfully submitted,

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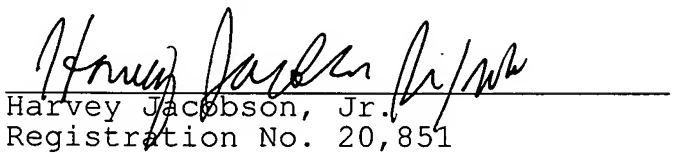

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